

Notice of Allowability

Application No.

10/697,377

Examiner

Anthony J. Green

Applicant(s)

RADTKE, CLIFFORD J.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment submitted on 03/02/05 and examiners amendment 05/05/05.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

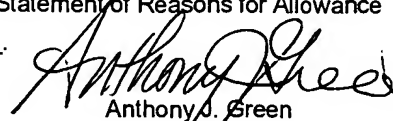
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Anthony J. Green
Primary Examiner
Art Unit: 1755

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donald Eraser on 5 May 2005.

The application has been amended as follows:

IN THE SPECIFICATION:

In line 1 of the amendment to page 4, line 15, submitted on 03 March 2005, the following phrase has been deleted: "Ca₃ Al₂O₆ Fe₂O₃"

In line 1 of the amendment to page 5, line 13, submitted on 03 March 2005, the phrase "AlO₂ O₃ Fe₃O₂" has been changed to read -- SiO₂ Al₂O₃ Fe₂O₃ --.

In line 1 of the amendment to page 6, line 14, submitted on 03 March 2005, the phrase "AiO₂ AlO₂ O₃ Fe₃O₂" has been changed to read -- SiO₂ Al₂O₃ Fe₂O₃.

IN THE CLAIMS:

In claim 2, lines 4-5, the phrase "having a chemical formula of ~~Ca₃ Al₂O₆ Fe₂O₃~~ ~~CaO~~ Ca₃ Al₂O₆ Fe₂O₃ and being" has been deleted and replaced with the term -- is --.

In claim 13, lines 5-6, the phrase "having a chemical formula of ~~Ca₃ Al₂O₆ Fe₂O₃~~ ~~CaO~~ Ca₃ Al₂O₆ Fe₂O₃ has been deleted.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance: The prior art of record, which is the most pertinent art found, fails to teach and/or fairly suggest the instant invention. The closest prior art is Cornwell et al (US Patent No. 4,088,804) which discloses cementitious coatings and methods comprising hydraulic cement, finely divided mineral aggregate, pozzolanic fly ash, calcium stearate, color pigments etc. however this reference fails to teach or suggest all of the particularly claimed components each which have distinct properties, in the amounts recited in the instant claims. For instance, the instant claims require the addition of various types of silica containing materials (fumed silica, silica sand, microsilica, silica powder etc.) in specific amounts and each of these silica containing materials are different from each other in terms of various properties (see the specification). Also the Cornwell et al reference fails to teach or fairly suggest the addition of slag and a high reactivity metakaolin. The Bonen and Peev et al references which were cited by the examiner fail to teach or fairly suggest all of the particularly claimed components.

Accordingly the instant claims are allowable over the art of record for the reasons set forth above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

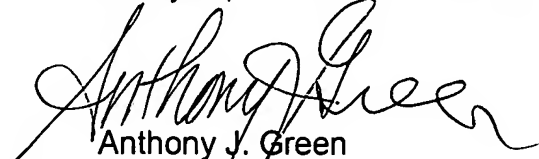
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
May 13, 2005